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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,828	06/08/2005	Jae Sung Sim	0465-1354US1	8667

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BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER
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DOERRLER, WILLIAM CHARLES

ART UNIT	PAPER NUMBER
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3744

NOTIFICATION DATE	DELIVERY MODE
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12/17/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/537,828	<b>Applicant(s)</b> SIM ET AL.	
	<b>Examiner</b> William C. Doerrler	<b>Art Unit</b> 3744	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,5-17,19 and 21-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-17,19,21-31,33 and 34 is/are rejected.
- 7) ☒ Claim(s) 32 and 35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The finality of the 8-15-2008 rejection is hereby withdrawn. An Office Action on the claims submitted 11-17-2008 follows.

#### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1,3,5-17,19,21-31,33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janke et al (4,924,680) in view of O' Connell et al (3,252,292).

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Janke et al discloses applicants' basic inventive concept, a refrigerator 10 having side by side freezing 16 and refrigerating 18 compartments separated by a divider 14. The divider has an air passage 34 for the refrigerated compartment. Janke further shows an evaporator 24 located behind the freezing compartment and a fan to distribute the cooled air. Janke et al does not show a divider for the evaporator. O'Connell et al shows a divider 76 which contacts a cooling fin to divide an evaporator which cools both a refrigerating compartment and a freezing compartment, so that the air for each compartment does not mix. It would have been obvious to an ordinary practitioner in the art at the time of applicants' invention from the teaching of O'Connell to modify the refrigerator of Janke by supplying separate air flows through the evaporator to provide improved control over the temperatures in each of the compartments and to reduce the buildup of frost. In regard to claims 3 and 19, figure 1 of O'Connell shows that the freezing portion of the evaporator (on the left) is larger than the refrigeration portion. In regard to claims 5-8 and 21-24, both references show an evaporator chamber having an front and rear with air openings on the front and a fan to provide airflow. In regard to claims 9 and 25, Official Notice is taken that cross flow fans are well known in the art and as such would have been obvious to an ordinary practitioner in the art. In regard to claims 10-12, using one fan with a separator is seen as obvious unification of parts in place of two separated fans. The number of fans is not seen as patentable invention as both one fan with a separator or two fans physically separated will provide separate airflows to the compartments (this is the reason that claims 1 and 16 are not seen as patentably distinct). In regard to claims 30,31,33 and 34, the shape of the evaporator is

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seen as a matter of design choice for an ordinary practitioner to provide the most compact refrigerator while still permitting proper air flow.

***Allowable Subject Matter***

Claims 32 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 1,3,5-17,19,21-31,33 and 34 have been considered but are moot in view of the new ground(s) of rejection.

The new rejection is seen to provide a teaching of divided airflows through an evaporator of a side-by-side refrigerator with air passage through the divider.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Doerrler whose telephone number is (571) 272-4807. The examiner can normally be reached on Monday-Friday 6:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William C Doerrler  
Primary Examiner  
Art Unit 3744

WCD

/William C Doerrler/  
Primary Examiner, Art Unit 3744